# House File 441 - Introduced

HOUSE FILE 441 BY OLSON

## A BILL FOR

- 1 An Act providing immunity from alcohol-related offenses for
- 2 certain persons under the legal age and modifying penalties.
- 3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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- 1 Section 1. Section 123.47, Code 2015, is amended by adding
- 2 the following new subsection:
- 3 NEW SUBSECTION. 9. a. A person under twenty-one years of
- 4 age shall not be charged or prosecuted under this section if
- 5 the evidence for the charge was obtained as a result of the
- 6 person seeking medical assistance for another person due to
- 7 alcohol consumption.
- 8 b. A person under twenty-one years of age who is in need
- 9 of medical assistance due to alcohol consumption shall not be
- 10 charged or prosecuted under this section if the evidence for
- 11 the charge was obtained as a result of such person or another
- 12 person seeking medical assistance for such person.
- c. This subsection shall not be grounds for suppression of
- 14 evidence in other criminal charges except for violations of
- 15 sections 321.216B, 321.284, and 321.284A.
- 16 Sec. 2. Section 123.47B, Code 2015, is amended by adding the
- 17 following new subsection:
- 18 NEW SUBSECTION. 1A. If a person under the age of
- 19 eighteen is discovered consuming or to be in possession of
- 20 alcoholic liquor, wine, or beer, but the person is immune from
- 21 prosecution under section 123.47, subsection 9, a peace officer
- 22 shall make a reasonable effort to identify the person and
- 23 notify a juvenile court officer of such person's consumption
- 24 or possession.
- Sec. 3. Section 321.216B, Code 2015, is amended to read as
- 26 follows:
- 27 321.216B Use of driver's license or nonoperator's
- 28 identification card by underage person to obtain alcohol.
- 29 l. A person who is under the age of twenty-one, who alters
- 30 or displays or has in the person's possession a fictitious
- 31 or fraudulently altered driver's license or nonoperator's
- 32 identification card and who uses the license to violate or
- 33 attempt to violate section 123.47, commits a simple misdemeanor
- 34 punishable as a scheduled violation under section 805.8A,
- 35 subsection 4. The court shall forward a copy of the conviction

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- 1 to the department.
- 2 2. A person who is immune from prosecution under section
- 3 123.47, subsection 9, shall not be charged or prosecuted under
- 4 this section if the evidence for the charge was obtained during
- 5 the same event for which the person is immune under section
- 6 123.47, subsection 9.
- 7 Sec. 4. Section 321.284, Code 2015, is amended by adding the
- 8 following new subsection:
- 9 NEW SUBSECTION. 3. A person who is immune from prosecution
- 10 under section 123.47, subsection 9, shall not be charged or
- 11 prosecuted under this section if the evidence for the charge
- 12 was obtained during the same event for which the person is
- 13 immune under section 123.47, subsection 9.
- 14 Sec. 5. Section 321.284A, Code 2015, is amended by adding
- 15 the following new subsection:
- 16 NEW SUBSECTION. 6. A person who is immune from prosecution
- 17 under section 123.47, subsection 9, shall not be charged or
- 18 prosecuted under this section if the evidence for the charge
- 19 was obtained during the same event for which the person is
- 20 immune under section 123.47, subsection 9.
- 21 EXPLANATION
- 22 The inclusion of this explanation does not constitute agreement with
- the explanation's substance by the members of the general assembly.
- 24 This bill provides immunity from alcohol-related offenses
- 25 for persons under the legal age who seek medical assistance for
- 26 a person due to alcohol consumption and for persons under the
- 27 legal age who seek such assistance or for whom such assistance
- 28 is sought.
- 29 Under Code section 123.47, a person under the age of 21
- 30 shall not purchase, consume, or possess alcoholic liquor, wine,
- 31 or beer; shall not sell, give, or otherwise supply alcoholic
- 32 liquor, wine, or beer to a person under the legal age; and
- 33 shall not, if in control of property that is not a licensed
- 34 premises, permit a person under the age of 18 to consume or
- 35 possess any alcoholic liquor, wine, or beer on such property.

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The bill provides immunity from Code section 123.47 for 1 2 underage persons who seek medical assistance for a person 3 due to alcohol consumption and to underage persons who seek 4 such assistance or for whom such assistance is sought, if the 5 evidence for the charge was obtained as a result of the seeking 6 of medical assistance. Under Code section 232.52, a juvenile court may suspend or 8 revoke the driver's license or operating privilege of a person 9 under the age of 18, for a period of one year, who has violated 10 Code section 123.47. Because the bill provides immunity to 11 persons from Code section 123.47, a person under the age of 18 12 who receives immunity from prosecution under the bill will not 13 face the loss of such person's driver's license for one year. The bill provides that if a person is immune from prosecution 14 15 from Code section 123.47, the person is also immune from 16 prosecution under Code sections 321.216B (use of driver's 17 license or nonoperator's identification card by underage person 18 to obtain alcohol), 321.284 (open containers in motor vehicles 19 — drivers), and 321.284A (open containers in motor vehicles 20 — passengers). The bill specifies that the immunity provided shall not 21 22 be grounds to suppress evidence in other criminal charges 23 except for violations of Code sections 321.216B, 321.284, and 24 321,284A. 25 The bill provides that if a person under the age of 18 is 26 discovered consuming or to be in possession of alcohol but 27 receives immunity from prosecution under Code section 123.47, 28 a peace officer shall notify a juvenile court officer of 29 such person's consumption or possession. Under Code section 30 123.47B(2), the juvenile court officer is required to notify 31 the person's custodial parent, legal guardian, or custodian and 32 the superintendent of authority in charge of the school the 33 person attends of the consumption or possession.